

Amendment to the Claims

1. (canceled)
2. (amended) The method of claim 20 4, further comprising the steps of
 - (vi) preparing a separate heterologous gene construct for each isolated gene;
 - (vii) transforming plants with said separate heterologous gene construct wherein expression of the isolated gene is enhanced in said plants;
 - (viii) selecting plants having the desired trait.
3. (amended) The method of claim 20 4, wherein the enhancer is selected from the group consisting of a CaMV35S enhancer element, a Figwort Mosaic Virus (FMV) promoter, a Figwort Mosaic Virus (FMV) enhancer, a peanut chlorotic streak caulimovirus full-length transcript (PCISVFLt) sequence, a mirabilis mosaic virus (MMV) promoter and a mirabilis mosaic virus (MMV) enhancer.
4. (previously presented) The method of claim 3, wherein said enhancer is the CaMV35S enhancer element, and wherein the CaMV35S enhancer element is a 4X tandem duplicated CaMV35S enhancer element having the sequence presented as SEQ ID NO:1.
5. (previously presented) The method of claim 3, wherein said enhancer is the Figwort Mosaic Virus (FMV) promoter having the sequence presented as SEQ ID NO:5 or the Figwort Mosaic Virus (FMV) enhancer having the sequence presented as SEQ ID NO:6.
6. (previously presented) The method of claim 3, wherein said enhancer is the peanut chlorotic streak caulimovirus full-length transcript (PCISVFLt) sequence, and wherein the PCISVFLt sequence is the enhancer having the sequence presented as SEQ ID NO:7.
7. (previously presented) The method of claim 3, wherein said enhancer is the mirabilis mosaic virus (MMV) promoter having the sequence presented as SEQ ID NO:8 or the mirabilis mosaic virus (MMV) enhancer having the sequence presented as nucleotides 1-260 of SEQ ID NO:8.
8. (amended) The method of claim 20 4, wherein said selectable marker-encoding nucleotide sequence encodes a polypeptide which confers herbicide-resistance to transformed plant cells expressing said marker.

9. (previously presented) The method of claim 20 ~~1~~, wherein said selectable marker-encoding nucleotide sequence encodes an antibiotic resistance gene which confers resistance to an antibiotic selected from the group consisting of kanamycin, G418, bleomycin, hygromycin, chloramphenicol, ampicillin and tetracycline.

10. (previously presented) The method of claim 9, wherein said antibiotic is kanamycin.

11-15. (canceled)

16. (amended) The method of claim 20 ~~1~~, wherein said desired trait is a biochemical modification of a plant and fruit selected from the group consisting of a change in the level of vitamins minerals, elements, amino acids, carbohydrates, lipids, nitrogenous bases, isoprenoids, phenylpropanoids and alkaloids.

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17. (amended) The method of claim 20 ~~1~~, wherein said desired trait is a fruit-bearing plant specific trait selected from the group consisting of increased resistance to fungal pathogens, increased resistance to bacterial pathogens, increased resistance to viral pathogens, increased resistance to insects, modified flower size, modified flower number, modified flower pigmentation, modified flower shape, modified leaf number, modified leaf pigmentation, modified flower shape, modified seed number, a modified pattern of leaves and flowers, a modified distribution of leaves and flowers, modified stem length between nodes, modified root mass, increased drought tolerance, increased salt tolerance and increased antibiotic tolerance.

18-19. (canceled)

19. (currently amended) ~~A transgenic fleshy fruit bearing plant comprising enhanced expression of a gene identified by~~ The method of claim ~~1~~2, wherein the expression of the isolated gene is associated with a morphological characteristic selected from the group consisting of leaflet size, leaf size, leaf color, leaf shape, leaflet number, leaf number, internode length, plant height, floral organ characteristics and fruit characteristics.

20. (currently amended) A method for identifying genes associated with a desired trait in a tomato plant comprising:

(i) transforming cells of a tomato plant with a plant cell expression vector having an *E. coli* origin of replication, an enhancer, a selectable marker-encoding nucleotide sequence operably linked to a promoter effective to express the selectable marker encoding sequence, a transcription termination element for said selectable marker-encoding nucleotide sequence and a T-DNA sequence in a manner effective to express said selectable marker-encoding nucleotide sequence;

(ii) selecting plant cells which have been transformed by their ability to grow in the presence of an amount of selective agent that is toxic to non-transformed plant cells;

(iii) regenerating transformed plant cells to yield mature plants;

(iv) selecting plants having a desired trait; and

(v) identifying, isolating and characterizing genes the transcription of which was enhanced by said ~~element which functions to enhance~~ gene expression.

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21. (previously presented) The method of claim 20 wherein said transforming cells is by introduction of *Agrobacterium tumifaciens* into hypocotyls derived from said tomato plant in the absence of feeder cells.

22. (previously presented) The method of claim 20 wherein said transforming cells is by introduction of *Agrobacterium tumifaciens* into shoot tip tissue derived from said tomato plant in the absence of feeder cells.

23. (previously presented) The method of claim 20 wherein said tomato plant is a dwarf tomato plant.
